IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO.913 OF 1992

DATE OF DECISION: 12-7-2006

Jagdish son of Manphool Bishnoi, resident of village and post office Kharakheri, PS, Agroha, Tehsil and District Hissar.

.....Appellant

VERSUS

1.Ram Sarup son of Amar Singh, resident of village Kanwari, Tehsil Hansi, District Hisar(Driver of Bus No.HRT 5307), Haryana Roadways Bus of Hisar Depot.

2.Haryana Roadways through the General Manager, Haryana Roadways, Hisar Depot, Hisar.

3.Collector, Hisar, District Hisar.

.....Respondents

CORAM:- HON'BLE MR. JUSTICE R S MADAN

PRESENT: Mr.RN Lohan,Advocate
for the appellant.

Mr.SS Goripuria, Senior Deputy Advocate General, Haryana
for the respondents.

JUDGMENT

The present FAO arises out of the award dated 7-2-1992 passed by the Motor Accident Claims Tribunal, Hisar vide which the appellant was awarded compensation of Rs.52,350/- for the grievous injury sustained by him in a motor vehicle accident, which had taken place on

29-11-1990.

Heard

At the relevant time, the appellant was aged about 31 years and was cultivating the land and used to sell milk. On account of the injuries sustained by him in the accident, his left leg was amputated under the knee and his right thigh was also fractured and crushed. Thus, both the legs have become week. Accordingly, he could not walk. He has stated that he spent a sum of Rs.70,000/- to 80,000/- on his treatment. During the period of treatment, he was examined by Dr.CR Garg-PW1 and Dr.ML Kochar-PW3, who proved the injuries and disability respectively. Dr.CR Garg has conducted the X-ray examination on 4-12-1990 and found fracture of left side and fracture of both bones on the left side. PW3-Dr.ML Kochar has stated that appellant-Jagdish remained under his treatment and he was having fracture of both femur having crush on his right leg and that his left leg had to be amputated. Subsequently, the fractures of the femur were treated conservatively; that they had mal-united and that he developed sciatic nerve pulse on left limb. He remained in the hospital for three months. The Medical Board, which examined him for the purpose of evaluating the disability, issued certificate Ex.PB and assessed 80% disability as left leg was amputated below knee and the other had suffered paralysis of sciatic nerve and bones were mal-united. Thus, there was shortening of both the limbs. Though he has placed on record the bill with respect to his treatment worth Rs.10,315.34P., but not proved in accordance with law. At the same time, it cannot be over-sighted that the appellant suffered permanent disability and is unable to perform his day-to-day activities as a normal human being. It is not possible for him to carry out

the work as labourer or to carry on the agricultural operations which he used to do before the accident.

On consideration of the facts and circumstances and the law rendered in **Suresh** Vs. **New India Assurance Company Limited and others** 2005 ACJ 958 wherein similar circumstances, the Division Bench of Madhya Pradesh High Court awarded a consolidated sum of Rs.3,50,000/- in all against all the respondents. The case of the appellant is almost on similar footings. The only difference is that in the present appeal, the appellant has suffered 80% disability in his left leg which has been amputated below knee and his right leg was crushed, which suffered paralysis of sciatic nerve, therefore, his functional disability has increased and can be assessed as 90%.

Resultantly, the awarded amount is enhanced from Rs.52,320/- to Rs.3,50,000/- inclusive of medical expenses and others against all the respondents, who shall be liable to pay the same jointly and severally. Thus keeping in view the facts and circumstances of the case, the appellant would not be entitled to any interest on the enhanced amount.

This appeal, thus, stands allowed in part to the extent mentioned above alongwith cost throughout. The counsel fee is assessed at Rs.1,000/-, if certified.

(R S MADAN)
JUDGE

July 12, 2006
jt